

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**
FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

9 9 — 0 1 6

2. STATE:

Pennsylvania

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

Title XIX

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

NOVEMBER 1, 1999

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR 447.205

7. FEDERAL BUDGET IMPACT:

a. FFY 00 \$ 16,107,244
b. FFY 01 \$ 34,657,282

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19 D Part 1
Pages 13, 14, 15, 16, 17

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Attachment 4.19 D Part 1
Pages 13, 14, 15, 16

10. SUBJECT OF AMENDMENT:

Exceptional Grant Payments for Exceptional Durable Medical Equipment

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:

Review and approval authority has been
delegated to the Secretary of Public
Welfare

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Feather O. Houston

13. TYPED NAME:

Feather O. Houston

14. TITLE:

Secretary of Public Welfare

15. DATE SUBMITTED:

12/31/99

16. RETURN TO:

Commonwealth of Pennsylvania
Department of Public Welfare
P.O. Box 2025
Harrisburg, PA 17102

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED:

June 6, 2001

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

11/1/99

20. SIGNATURE OF REGIONAL OFFICIAL:

Claudette V. Campbell

21. TYPED NAME:

CLAUDETTE V CAMPBELL

22. TITLE:

ASSOCIATE REGIONAL ADMINISTRATOR
DIVISION OF MEDICAID &
STATE OPERATIONS

23. REMARKS:

2. The Department will identify eligible county nursing facilities.
3. The Department will negotiate a total supplementation payment amount with eligible county nursing facilities. The negotiated total supplementation payment amount may equal but will not exceed the Medicare upper limit amount calculated in step 1 above.
4. The Department will select the latest fiscal period for which all eligible county nursing facilities have an acceptable cost report on file with the Department and will sum the total MA allowable costs reported by the eligible county nursing facilities for that fiscal period.
5. The Department will divide the total supplementation payment amount by the total MA costs to derive the supplementation percentage.
6. The Department will multiply each eligible county nursing facility's reported MA costs for the fiscal period selected in step 4 above by the supplementation percentage to determine that county nursing facility's supplementation payment.

J. Exceptional Payment Agreements

1. Exceptional Payment Agreements Prior to January 1, 1996

Prior to January 1, 1996, exceptional payment agreements provided for the additional services/supplies which included ventilator rental equipment, supplies necessary because of ventilator dependency, respiratory hours, additional nursing hours and intensive head injury programs with extensive physical, speech and occupational therapy to high technology-dependent residents, such as ventilator dependent and head and/or spinal cord injured individuals. The Department will continue to make payment under exceptional payment agreements for residents who were receiving services/supplies under this program prior to the implementation of the case-mix payment system on January 1, 1996 until these services/supplies are no longer needed or desired by the resident; upon 30 day written notice to the nursing facility; or upon the nursing facility's breach of the agreement.

2. Exceptional Payment Agreements on or after January 1, 1996

Beginning on January 1, 1996, the Department began entering into Exceptional Payment Agreements in accordance with the following provisions. With the implementation of the case-mix payment system, in limited instances, the Department entered into exceptional payment agreements with participating nursing facilities to make payments in addition to the nursing facilities' case-mix per diem rate for high technology-dependent residents, such as ventilator dependent and head and/or spinal cord injured individuals. To receive exceptional payments for a high technology-dependent resident, a nursing facility had to demonstrate to the satisfaction of the Department that its case-mix per diem rate did not cover the additional exceptional costs that the nursing facility incurred to care for the resident.

If the Department was satisfied that the nursing facility's case-mix per diem rate did not cover the additional exceptional costs related to the care of the high technology-dependent resident and that the resident could not otherwise obtain appropriate care, the Department could enter into an exceptional payment agreement to pay for additional costs necessary for the care of the exceptional resident. These additional costs were limited to: the rental of equipment and the supplies necessary to care for high technology-dependent residents.

The Department entered into an individual exceptional payment agreement for each exceptional resident and negotiated with the nursing facility the additional costs to be paid thereunder on a case-by-case basis.

The Department does periodic physician assessments of each exceptional resident to determine what the resident's current special medical needs are and how these needs can be met.

To receive payments for an exceptional resident, the nursing facility bills its case-mix rate for the resident. The nursing facility also submits a separate invoice each month for items specified in the exceptional payment agreement. The nursing facility must attach documentation to the monthly invoice verifying what special services/supplies were actually received by the resident for the month. The Department reviews the documentation and authorizes payment with the exceptional payment agreement only for services/supplies received by the resident for the applicable month and covered under the exceptional payment agreement.

During the audit, the Department ensures that the nursing facility adjusts its reported costs on the cost report to account for the exceptional reimbursement. Payment by the Department of the rates permitted by the exceptional payment agreement shall be payment in full for additional nursing facility services/supplies (above the customary MA covered services) required and received by the specified resident.

The Department will continue to make payments under exceptional payment agreements entered into during the period January 1, 1996 through October 31, 1999 in accordance with and subject to the terms and conditions in those agreements.

3. Exceptional Payment Agreements on or after November 1, 1999.

Beginning November 1, 1999, in addition to payments based upon the nursing facility's case-mix per diem rate the Department will issue exceptional Durable Medical Equipment (DME) grants that authorize payments for certain exceptional nursing facility services involving the purchase or rental of exceptional DME. For purposes of these grants, exceptional DME must have a minimum acquisition cost that is equal to or greater than an amount specified by the Department and is either specially adapted DME or such other DME that is designated as exceptional DME by the Department. The Department will identify the minimum exceptional DME acquisition cost and other designated exceptional DME annually by notice in the Pennsylvania Bulletin.

To receive an exceptional DME grant for a resident a nursing facility must submit a request on forms designated by the Department. The Department will issue an exceptional DME grant if the Department determines that: (1) the nursing facility's request complies with all applicable Department instructions; (2) the DME specified in the nursing facility's request is medically necessary; (3) the DME specified in the nursing facility's request is exceptional DME; (4) the nursing facility's physical plant, equipment, staff, program and policies are sufficient to insure the safe, appropriate and effective use of the exceptional DME; (5) nursing facility has exhausted all third party medical resources; and; (6) the nursing facility has executed a written grant agreement on a form designated by the Department.

When the Department issues an exceptional DME grant to a nursing facility, the Department enters into an individual exceptional payment agreement with the nursing facility that identifies the resident to whom the exceptional services are being provided, the specific equipment and related services paid by the exceptional DME grant, the amount of the exceptional payment(s), and the terms and conditions under which the payment(s) will be made. An exceptional DME grant is effective on the date specified in the nursing facility's grant agreement and ends on the date the exceptional DME grant is terminated pursuant to § 1187.156 (relating to termination or suspension of exceptional DME grants and recovery of exceptional payments).

The maximum allowable exceptional payment authorized by an exceptional DME grant is limited to the lowest of the following: (1) The lower of the nursing facility's costs to obtain the exceptional DME and related services and items; or, in the event the nursing facility is obtaining the exceptional DME or related services and items from a related party as defined in 55 Pa. Code § 1187.2 (relating to definitions), the related party's cost to furnish the exceptional DME and related services and items to the nursing facility; (2) The applicable MA outpatient fee schedule amount, if any; or, (3) Eighty percent (80%) of the amount, if any, that would be approved by Medicare if the DME or service or item were a Medicare Part B covered service or item.

The amount of the exceptional payment(s) authorized by the exceptional DME grant are deemed to be the necessary, reasonable and prudent costs of the exceptional DME and the related services and items identified in the nursing facility's exceptional DME grant agreement.

The exceptional payment is paid in either lump sum or monthly payments depending on which method is in the best interest of the MA program. Authorization for monthly payments continues during the term of the nursing facility's grant agreement except during a period of suspension as specified in § 1187.156 (relating to termination or suspension of exceptional DME grants and recovery of exceptional payments).

Nursing facility services paid by an exceptional DME grant are subject to review by the Department to ensure compliance with the terms and conditions of the exceptional DME grant agreement. The Department will perform periodic assessments of each resident receiving nursing facility services paid by an exceptional DME grant to determine the continuing need for the exceptional DME.

The Department will conduct audits to ensure that a nursing facility receiving payment authorized by an exceptional DME grant adjusts its reported costs on the cost report to account for the exceptional payments. Payment(s) received by a nursing facility pursuant to an exceptional DME grant is payment in full for nursing facility services involving exceptional DME related services and items.

K. Related Provisions

1. Supplement I contains the Department's Chapter 1187 Nursing Facility Service regulations.
2. The RUG-III index scores; peer groups; and the Financial and Statistical Report form (MA-11) are available for review upon request.

The Commonwealth of Pennsylvania has in place a process that complies with the requirements of Section 1902(a)(13)(A) of the Social Security Act.